

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Brandon Kale Harris,
Petitioner
v.
Brian Williams, *et al.*,
Respondents

2:16-cv-01305-JAD-CWH
Scheduling Order

On June 14, 2016, I granted Brandon Kale Harris's application for leave to proceed *in forma pauperis* and motion for appointment of counsel and appointed the Federal Public Defender to represent Harris in this § 2254 action.¹ I ordered the FPD to file a notice of appearance (or notify the court of its inability to represent Harris) by July 4, 2016, and directed counsel for respondents to file notice of appearance by that date. Counsel for both parties have appeared, so I now issue this scheduling order:

Amended Petition. If petitioner wishes to file an amended petition in this action, he must do so by October 12, 2016. The amended petition must state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition must state how, when, and where that occurred.

Response to Petition. Respondents will have 60 days from receipt of the amended petition to file and serve an answer or other response to the amended petition. If petitioner does not file an amended petition, respondents will have until December 12, 2016, to file and serve an answer or other response to the original petition.

Reply. Petitioner will have 45 days following service of an answer to file and serve a reply. Respondents will then have 30 days from receipt of the reply to file and serve a response to the reply.

¹ ECF No. 3.

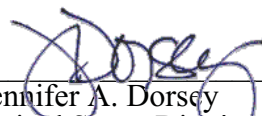
1 Briefing of Motion to Dismiss. If respondents file a motion to dismiss, petitioner will have
2 60 days following service of the motion to file and serve a response to the motion. Respondents will
3 then have 30 days following service of the response to file and serve a reply.

4 Discovery. If petitioner wishes to move for leave to conduct discovery, he must file and
5 serve that motion concurrently with, but separately from, the response to respondents' motion to
6 dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery filed by
7 petitioner before that time may be considered premature, and it may be denied without prejudice on
8 that basis. Respondents' response to any motion for leave to conduct discovery must be filed
9 concurrently with, but separately from, their reply in support of their motion to dismiss or their
10 response to petitioner's reply. Petitioner will then have 20 days to file and serve a reply in support of
11 his discovery motion.

12 Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, he must file and
13 serve a motion for an evidentiary hearing concurrently with, but separately from, the response to
14 respondents' motion to dismiss or the reply to respondents' answer. Any motion for an evidentiary
15 hearing filed by petitioner before that time may be considered premature, and it may be denied
16 without prejudice on that basis. The motion for an evidentiary hearing must specifically address why
17 an evidentiary hearing is required and must meet the requirements of 28 U.S.C. § 2254(e). The
18 motion must state whether an evidentiary hearing was held in state court, and, if so, identify where
19 the transcript is located in the record. If petitioner files a motion for an evidentiary hearing,
20 respondents' response to that motion must be filed concurrently with, but separately from, their reply
21 in support of their motion to dismiss or their response to petitioner's reply. Petitioner will then have
22 20 days to file and serve a reply in support of the motion for an evidentiary hearing.

23 **IT IS SO ORDERED.**

24 DATED July 12, 2016

25 
26 Jennifer A. Dorsey
27 United States District Judge
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